

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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**9277QB LLC,**

*Plaintiff,*

*-vs-*

**EVEREST NATIONAL INSURANCE COMPANY,**

*Defendant.*

**NOTICE OF REMOVAL UNDER  
28 U.S.C. § 1332  
(Diversity Jurisdiction)**

Queens County Index No.: 718594/2022

EDNY Civil Action No.: \_\_\_\_\_

Defendant Everest National Insurance Company (“Defendant”), pursuant to 28 U.S.C. §§ 1332 and 1441(a), hereby files its Notice of Removal of the above action, *9277QB LLC v. Everest National Insurance Company*, Queens County Index No. 718594/2022, from the Supreme Court of the State of New York, County of Queens, to the United States District Court for the Eastern District of New York, and in support thereof states:

**Process and Pleadings Served Upon Defendant**

1. The Summons and Verified Complaint in this action were filed in the Supreme Court of the State of New York, County of Queens, Index No. 718594/2022, on September 8, 2022. A copy of the Summons and Verified Complaint are attached hereto as **Exhibit “A.”**

2. Following the filing of the Summons and Verified Complaint, Plaintiff 9277QB LLC (“Plaintiff”) granted Defendant an extension of time to answer or otherwise appear until October 28, 2022.

**Grounds for Removal**

3. Plaintiff’s Verified Complaint seeks a declaratory judgment on the issues of defense and indemnity allegedly owed by Defendant with respect to an underlying matter venued in the

Supreme Court of the State of New York, County of Queens, entitled *Carlos Gimenez v. 9277QB LLC, et al.* Exhibit A, pp. 11-12, 28, 31-32.

4. The amount in controversy is greater than \$75,000, exclusive of interest and costs.

5. Upon information and belief, Plaintiff is a domestic limited liability company, whose members are residents of the State of New York and whose state of formation is New York.

6. Defendant Everest National Insurance Company is a foreign business corporation, organized under the laws of the State of Delaware. Defendant's principal place of business is 100 Everest Way, Warren, New Jersey 07059.

7. Defendant was served with the instant Summons and Verified Complaint via mailing on the New York State Department of Financial Services, pursuant to New York Insurance Law § 1212. Service was effectuated on September 26, 2022, upon Defendant's receipt by mail of the Summons and Verified Complaint. A copy of the Affidavit of Service, filed in the Supreme Court of the State of New York, County of Queens, Index No. 718594/2022, on September 19, 2022, is attached hereto as **Exhibit "B."** A copy of the date-stamped mailing received by Defendant on September 26, 2022 is attached hereto as **Exhibit "C."**

8. The above-entitled action is a civil action over which this Court would have original jurisdiction pursuant to 28 U.S.C. § 1332, and which therefore may be removed to this Court pursuant to 28 U.S.C. § 1441, in that the action is between citizens of different states, and the matter in controversy, exclusive of interest and costs, exceeds the sum or value of \$75,000.

9. A copy of the written notice required by 28 U.S.C. § 1446(d), addressed to the adverse party and to the Clerk of Queens County, is attached as **Exhibit "D"** and will be filed in the Queens County Clerk's Office and served on Plaintiff after the filing of this Notice of Removal in the United States District Court for the Eastern District of New York.

10. Defendant consents to the removal of this action from New York State Supreme Court, County of Queens, to the United States District Court for the Eastern District of New York.

**Timely Filing of this Notice**

11. Pursuant to 28 U.S.C. § 1446(b)(1), this notice is filed within thirty days after receipt by Defendant, through service or otherwise, of a copy of the pleading setting forth the claims for relief upon which this action is based.

12. Service and notice of the filing of this Notice of Removal will be served upon the Plaintiff as required. A true and correct copy of this Notice will be filed with the Queens County Clerk's Office.

13. This action is therefore removable to this Court pursuant to 28 U.S.C. §§ 1332 and 1441.

**WHEREFORE**, Defendant Everest National Insurance Company respectfully prays for this Court to accept the removal of this action from the State Court and grant to Defendant such other and further relief as the Court deems just and proper.

**DATED:** October 26, 2022

**BARCLAY DAMON LLP**

By:   
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Anthony J. Piazza

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